

Submitted this day 5/2/2003

Express Mail Form, Applicant to

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applicant : David C. Schwartz

Serial No. : 10/006,726

Filed : 12/03/2001

For : Binder View Pocket

Group Art Unit : 3722

Examiner : Ms. Monica Smith Carter

-(+) Samples of
BINDER VIEW POCKET &
PACKAGING SHOWING
POCKET

Southboro, Massachusetts 01772
May 2, 2003

Hon. Commissioner of Patents
and Trademarks

3 Mo extension under 37 CFR 1.17(a) & CPA under 37 CFR 1.53(d)

A 3 month extension in the above case is filed herewith along with a response to the Examiner's office action of 11/06/2002. The Patent office Credit Card Payment form method of payment in the amount of \$465.00 is used and said forms are attached here to as the means for establishing payment. This response comprises arguments by the Applicant and an amendment with revised claims which take into consideration issues raised by the Examiner in her last office action. This amendment is requested to be entered, and the claims examined in due course. If the Applicant has misfiled any paper or incorrectly paid any fee required, Applicant respectfully requests that Applicant be given due notice and the opportunity to correct any error.

Summary of Prior Office Action

Claims #1 and #2 are pending in this case. The Examiner has rejected claim 1

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under 35 USC 112 as being indefinite. The Examiner has rejected claims 1 &2 under 35 USC 103(a) as being obvious with respect to Friedman in view of Cross. Examiner dismisses Applicants argument of nonobviousness again using the ruling that recombining parts shall not allow for a patent if the prior art structure contains the newly applied for structure in a different configuration. Applicant points out that Applicant's claim does positively recite the viewing feature of applicants invention which is not enabled in Friedman nor in Cross. Examiner has not directly addressed Applicants argument that Applicant's patent teaches in a different direction than either Friedman or Cross, nor that Applicant's invention as now claimed not only provides a novel structure but a novel application with unexpected and unobvious benefit and a new advantage that flows naturally from following the novel combination and unique structure which is not either suggested or possible using any of the prior art alone or in combination. Examiner does not acknowledge that Applicant's invention as now claimed is the basis for patentability wher the differences claimed are not obvious with respect to the prior art.

Preliminary Amendment/including summary response to last OA

Applicant herewith amends Claim#1 to make it definite. Applicant requests that the Examiner carefully review all the arguments which the Applicant has made and the ones of the Examiner that the Applicant has traversed. Applicant has clearly pointed out that Friedman does not teach in the direction of Schwartz and that recombining Friedman does not produce Schwartz. Applicant has pointed out that Schwartz is for a 3 ring binder and does not rely on the wire of Friedman for closure. Examiner calls Friedman a ring binder, but in fact it is a wire binder and there is a fundamental difference in the way these two binders operate and in the way in which Friedman uses his wire for closure. Clearly, Examiner is now requiring one skilled in the art to not only decide that the Friedman structure should be rearranged; but that it is to be used in a different kind of binder, and that the closure means on which Friedman relies for his novelty be abandoned in favor of a different means of closure. That is requiring three leaps of inference, which Applicant holds negates obviousness.

Applicant holds that it does not follow naturally from Friedman's application to "do schwartz" and that suggesting the differences would then be obvious is relying on an "Escher like" form of circularity. Friedman does not teach Schwartz, the benefit of Schwartz does not flow from Friedman. Applicant is patentable over Friedman due to novelty, in particular, the use of a distinctly claimed Binding Region which is fundamentally different than the use and purpose of Friedman's closure structure, and respectfully points out for no less than the 4th time that the two inventions teach in different directions, and that Applicants invention relies on patentability based on novel and unexpected behavior for a structure previously not disclosed in the prior art I.e. said binding region, and further, by using a combination which is a result of his specific and different application, achieves patentability over Friedman in view of Cross. Cross teaches solely a diagonal corner set for a free floating paper